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SUBJECT: STATE COURT UPDATES PART ONE: WAR CRIMES CHAMBER

REF: SARAJEVO 2725

11. INTRODUCTION: This is the first of two cables summarizing cases currently before the State Court of Bosnia and Herzegovina. This cable summarizes war crimes cases. Cases underway in the State Court Special Section for Organized Crime, Financial Crime and Corruption will be discussed septel. These cables are intended to offer an overview of the Court and State Prosecutor's work in order to provide context for subsequent reporting on operational developments at the State Court. These including the phased transition from mixed international/national to wholly national control and staffing, and the impact of justice sector reforms. The U.S. currently provides roughly 40 percent of all international donor contributions to the State Court, the State Prosecutor's Office, and the Registry (court administration). END INTRODUCTION.

12. Legal and Structural Overview of the War Crimes Chamber:

a. The State War Crimes Chamber hears three types of cases:

(1) Rule 11bis Cases

Rule 11bis of the ICTY's procedural code allows for the transfer of cases involving ICTY indictments to courts in the former Yugoslavia for trial. The State War Crimes Chamber of Bosnia opened in March 2005. In October 2005, the ICTY sent Radovan Stankovic's case to the Chamber (see para. 3g). This marked the first transfer of an 11bis case from the ICTY to any jurisdiction in the former Yugoslavia. Since that time, the ICTY has transferred six more cases to Bosnia, and the State Prosecutor expects two others in the near term. At the moment, there are five 11bis cases in some phase of adjudication before the Chamber, involving 9 defendants. 11bis transferree and convicted war criminal Abduladhim Maktouf has exhausted his appeals and the verdict in that case is final (see para. 3d). The ICTY is preparing to transfer co-defendants Milan and Sredoje Lukic to Bosnia before the end of the year (see para. 3c). These transfers represent the ICTY's assessment that Bosnia is capable of trying war crimes cases in accordance with ICTY standards.

(2) 'Rules of the Road' Cases

These are cases where the ICTY Prosecutor's Office declined

to indict in The Hague, but recommended the Bosnian State Prosecutor pursue the case. There are 10 cases currently in some phase of adjudication before the court, involving 11 defendants. The ICTY Prosecutor's Office has also sent the State Prosecutor over 150 cases for review, investigation and possible indictment, and the Prosecutor's office expects to receive 20 additional ICTY referrals in the next few months. Case files arrive in varying states of completion, and some require considerable investigation before the Prosecutor's Office is able to decide whether there is sufficient evidence to charge a suspect. The State Prosecutor has also referred over 90 'Rules of the Road' cases to lower courts in Bosnia for trial, involving more than 250 individuals.

(3) Domestic Cases

These are wholly domestically driven war crimes cases that the Chamber has accepted from lower courts, or that the State Prosecutor's office has initiated without ICTY involvement. There are currently two such cases before the Chamber, with 12 defendants. An additional 126 cases are under investigation, involving 334 suspects.

b. Cases are heard in the first instance by a three-judge panel in the War Crimes Chamber. Each panel contains at least one national and one international judge. Verdicts are reached by consensus. In accordance with the Bosnian Code of Criminal Procedure, verdicts must be rendered orally within three days after the prosecutor and defense deliver final arguments, followed by a written decision within 30 days. Appeals are made to a different three-judge panel, also within the War Crimes Chamber. Decisions of the appeals panels are final.

SARAJEVO 00003069 002 OF 006

13. Summary of Rule 11bis Cases

a. JANKOVIC, Gojko: (DPOB: 31 October 1954, Trbusce, Foca, Bosnia and Herzegovina)

Charge: Crimes Against Humanity

The indictment alleges that, as leader of a paramilitary group, Jankovic ordered and participated in a large-scale and systematic attack on the non-Serb population in the Foca municipality region between April 1992 and February 1993. He is accused (inter alia) of multiple specific instances of unlawful detention, killing, long-term enslavement and rape (of adult women and under-aged girls). The defendant voluntarily surrendered on 13 March 2005 and was transferred to ICTY Detention unit in The Hague. The ICTY transferred the case to Bosnian Courts in December 2005. At the initial hearing in February 2006, Jankovic pleaded not guilty. The main trial has been underway since April 2006.

b. LJUBICIC, Pasko (aka Toni Raic, DPOB: 15 November 1965, Nezirovici, Busovaca, Bosnia and Herzegovina)

Charge: Crimes Against Humanity

According to the indictment, in 1993 Ljubicic commanded the First and Fourth Battalions of the HVO Military Police stationed in central Bosnia. Acting on his orders, these battalions perpetrated widespread and systematic attacks on several villages and towns in the Vitez and Busovaca municipalities in central Bosnia. Crimes committed by the police under his authority included unlawful detention, forced labor, wanton destruction of property (Bosniak homes and mosques) and mass murder. Ljubicic was taken into custody in December 2005, and the ICTY transferred him to Bosnia on 22 September 2006. His case is in the pre-trial phase.

c. LUKIC, Milan (DPOB: 6 September 1967, Rujiste, Visegrad, Bosnia and Herzegovina)

Co-Defendant:

LUKIC, Sredoje (DPOB: 5 April 1961, Rujiste, Visegrad, Bosnia and Herzegovina)

Charges: Crimes Against Humanity; Violating the Laws and Customs of War

When the war started, Milan Lukic organized a local paramilitary group, sometimes called the 'White Eagles' or the 'Avengers.' His cousin Sredoje, a Visegrad policeman before the war, was a member of this group. The indictment describes specific murders of several small groups of Bosnian men committed by the group in June 2002. The defendants are also accused of confining and burning alive two different groups of Bosniak women, children and elderly men in June 1992. There were approximately 140 victims killed in this manner. Only a handful of people survived. Milan and Sredoje Lukic are currently in The Hague, where their appeal against an 11bis transfer to Bosnia is under review. The State Prosecutor's Office expects that the appeal will be denied and the case transferred to Bosnia in early 2007.

d. MAKTOUF, Abduladhim (DPOB: 3 January 1959, Basra, Iraq)

Charge: War Crimes Against Civilians

The first instance court in July 2005 found Maktouf guilty on the basis of his role in kidnapping and murdering five Croat civilians in Travnik in October 1993 while he was a soldier in the Al Mujahid brigade. One of the civilians was beheaded. The trial panel sentenced him to five years imprisonment. The Court's appellate panel revoked the first instance verdict and ordered a partial retrial. As a result of the partial retrial, February-April 2006, he was again found guilty and given a five-year sentence. Maktouf has exhausted his appeals and the verdict is final.

e. MEJAKIC, Zeljko et al

SARAJEVO 00003069 003 OF 006

Defendants:

Mejakic, Zeljko (DPOB: 2 August 1964, Petrov Gaj, Prijedor, Bosnia and Herzegovina)
Gruban, Momcilo (aka Ckalja; DPOB: 19 June 1961, Miracka, Prijedor, Bosnia and Herzegovina)
Bosnia and Herzegovina Dusan (DPOB: 29 June 1954, Backo Dobro Polje, Vrbas, Vojvodina, Serbia)
Knezevic, Dusko (aka Duka; DPOB: 17 June 1967, Orlovci, Prijedor, Bosnia and Herzegovina)

Charge: Crimes Against Humanity

The indictment alleges that from May to December 1992, Mejakic was the de facto commander and Gruban was a head guard at the Omarska Detention Camp, where they subjected the prisoners to inhuman treatment, torture, and sexual and psychological abuse. They further ordered, supervised and participated in the beating to death of several prisoners over that time period. Fustar was a head guard at the Keraterm Detention Camp May-August, 1992, where he participated in the periodic selection and execution of male detainees. Knezevic, who had no official position at Omarska or Keraterm, was allegedly allowed free access to each camp, where he abused and beat to death detainees with impunity. The ICTY transferred the accused to the Bosnian War Crimes Chamber in May 2006. Their trial began in October 2006.

f. RASEVIC, Mitar (DPOB: 15 November 1949, Cagust, Foca, Bosnia and Herzegovina)

Co-Defendant:

TODOVIC, Savo (DPOB: 11 December 1952, Rijeka, Foca, Bosnia and Herzegovina)

Charges: Crimes Against Humanity; Violations of the Laws or Customs of War

Rasevic, a sociology teacher before the war, was commander of the guards at the Foca KP Dom prison from April 1992 to October 1994. Todovic supervised the prison staff there, and later became Assistant Warden of KP Dom. The indictment includes charges that they ordered, facilitated and participated in the persecution, torture, physical abuse, murder, unlawful imprisonment and enslavement of non-Serb civilians during that time. The victims were primarily Muslim males, but detainees also included some Croats. Detainees died of starvation, repeated physical abuse, and forced labor, including clearing landmines for the Bosnian Serb military. The ICTY transferred Rasevic and Todovic to Bosnian State Court custody in October 2006. The case is in the pre-trial phase.

g. STANKOVIC Radovan (DPOB: 10 March 1969, Trebicina Foca, Bosnia and Herzegovina)

Charge: Crimes Against Humanity

The indictment alleges that as a member of the Miljevina battalion from April 1992 to February 1993, Stankovic committed, incited, aided and abetted (inter alia) multiple acts of enslavement, torture, rape and killing of non-Serb civilians. These acts were allegedly carried out as part of a widespread and systematic attack of the Republika Srpska's army against the non-Serb population in the Foca region. In particular, Stankovic is accused of setting up, together with other persons, a detention center for women in August 1992. Bosniak women were kept there in sexual slavery for extended periods. SFOR arrested Stankovic in July 2002. Stankovic was the first ICTY 11bis transfer to the State Court War Crimes Chamber, in September 2005. His trial began in May 2006. On November 14, the trial panel found him guilty and sentenced him to 16 years in prison. The defense plans to appeal.

14. Summary of Rules of the Road Cases

a. ANDRUN, Nikola (DBOP: November 22, 1957, Domanovici

SARAJEVO 00003069 004 OF 006

Capljina Bosnia and Herzegovina)

Charge: Crimes Against Humanity

Andrun is accused of specific incidents of torture, killing and other mistreatment of civilian prisoners at the Gabela Detention Camp when he was deputy head of the camp from July to September 1993. He also allegedly concealed prisoners from an inspection by the International Committee of the Red Cross. Andrun has been in custody since November 2005. His trial started in June 2006.

b. DAMJANOVIC, Dragan (DPOB: 23 November 1961, Sarajevo, Bosnia and Herzegovina)

Charge: Crimes Against Humanity

According to the indictment, while fighting with the army of the self-styled "Serb Republic of Bosnia" in the Vogosca area, Damjanovic committed multiple acts of murder, torture, rape, using prisoners as human shields, and other inhuman acts. Damjanovic has been in custody since March 2006. His trial began in June.

c. DAMJANOVIC, Goran (aka Panija; DPOB: 12 July 1966, Sarajevo, Bosnia and Herzegovina)

Co-Defendant:

DAMJANOVIC, Zoran (aka Salama; DPOB: 4 September 1967, Mihaljevici, Sarajevo, Bosnia and Herzegovina)

Charges: War Crimes Against Civilians. Goran Damjanovic is also charged with Illegal Manufacture and Trade of Weapons or Explosive Materials.

Brothers Goran and Zoran Damjanovic were members of the "Serb Republic of Bosnia" Army. They are accused of a specific instance of beating 20-30 Bosniak civilian male prisoners from the town of Ahatovici over a three-hour period. Both men pleaded not guilty at their preliminary hearing. On June 27, 2006 the brothers applied for release from custody pending a verdict. The Court denied Goran's request, but approved Zoran's release. The Court stated that Zoran did not pose a flight risk and would not interfere with the criminal proceedings while at liberty. The trial began in September 2006.

d. KOVACEVIC, Nikola (aka Danilusko Kajtez; DPOB: 19 April 1968, Kruhari, Sanski Most, Bosnia and Herzegovina)

Charge: Crimes Against Humanity

Kovacevic was a member of the SOS unit (Serbian Defense Forces) during the war. He allegedly committed specific acts of murder, imprisonment, torture, and ethnic persecution against non-Serb civilians. These events occurred as part of widespread and systematic attacks against the Bosniak and Croat civilian populations in the Greater Bosanska Krajina area from April to August 1992. The defendant has been in custody since October 2005. His trial began in April 2006.

e. LJUBINAC, Radisav (aka Pjano; DPOB: 12 January 1958, Cemanovici, Rogatica, Bosnia and Herzegovina)

Charge: Crimes Against Humanity

The indictment cites multiple specific instances when Ljubinac took part in unlawful detentions, forced transfers of people, and murders of civilians in the Rogatica Municipality area in 1992. He is also accused of organizing the use of 27 civilians as human shields and then arranging their execution by firing squad. Ljubinac was taken into custody in December 2005. In November 2006 the Court refused his request for bail, but granted him permission to reapply in January 2007. The case is in the pre-trial phase.

f. MANDIC, Momcilo (DPOB: 1 May 1954, Kalinovik, Bosnia and Herzegovina)

Charges: Crimes Against Humanity; War Crimes Against Civilians

SARAJEVO 00003069 005 OF 006

According to the indictment, when Mandic was Assistant Minister of Interior in the "Serb Republic of Bosnia" in 1992, he directed the attack and subsequent ethnic purge of the Training Center for Personnel of the Serb Republic's Ministry of Interior. When Mandic served as the Serb Republic's Justice Minister in 2003, he was the immediate superior of management and staff in all penal facilities in the Serb Republic. He is thereby being held responsible for the physical abuse and murders of prisoners at these institutions during that time. Mandic has been in custody since August 2005. In October the BiH Court special section for Organized Crime, Economic Crime and Corruption found him guilty of violating RS banking laws when he was Director of the Privredna Banka Srpsko Sarajevo, and sentenced him to nine years in jail (REFTEL). His trial for war crimes began in November 2006.

g. PAUNOVIC, Dragoje (DPOB: 19 June 1954, Mojkovac, Montenegro)

Charge: Crimes Against Humanity

Paunovic was the leader of a paramilitary unit fighting in the Serb Republic. According to the indictment, on August 15, 1992, he ordered soldiers to take 27 unlawfully detained civilians from the Rasadnik camp and use them as human shields on the front-line during a confrontation with the Federation armed forces. Later that day, he ordered and took part in their executions. Three people survived the shooting. Paunovic was arrested in March 2005. The Court found him guilty in May 2006 and sentenced him to twenty years in prison. On October 27, the Appellate Panel denied the prosecution's appeal for a higher sentence and reaffirmed the lower Court's decision.

h. SAMARDZIC, Nedo (DPOB: 7 April 1968, Bileca, Bosnia and Herzegovina)

Charge: Crimes against Humanity

The indictment alleges that as a member of the Miljevina battalion between April 1992-March 1993, Samardzic committed, incited, aided and abetted (inter alia) multiple acts of enslavement, torture, rape and killing of non-Serb civilians.

These acts were allegedly carried out as part of a widespread and systematic attack of the Republika Srpska's army against the non-Serb population in the Foca region. In particular, Samardzic is accused of setting up, together with his brother Zoran and other persons, a detention center for women in August 1992 that was a rape center. He is also accused of specific incidents of raping Bosniak female patients at the Foca Hospital. The defendant has been in custody since October 2005. In April 2006, the first instance trial panel found Samardzic guilty and sentenced him to 13 years imprisonment. The case is on appeal.

i. SAMARDZIJA, Marko, (DPOB: 1 December 1936, Gornja Prisjeka, Kljuc, Bosnia and Herzegovina)

Charge: Crimes Against Humanity

Samardzija commanded the 3rd Company of the Sanica Battalion in the "Serb Republic of Bosnia" during the war. In June 1992, he supervised the round up and murder of at least 144 Bosniak male civilians, aged 18-60, from the Brkic and Balagic Brdo villages. Those executed were buried in mass graves that have since been uncovered. Samardzija has been in custody since March 2005. On November 3, 2006, the lower court found him guilty and sentenced him to 26 years in prison, the highest sentence imposed by State Court so far. The defense plans to appeal.

j. SIMSIC, Boban (DPOB: 17 December 1967, Visegrad, Bosnia and Herzegovina)

Charge: Crimes against Humanity

Simsic is accused of taking part in the persecution of Bosniak civilians in the Visegrad municipality between April

SARAJEVO 00003069 006 OF 006

and July 1992. In particular, he is charged with rounding up civilians in several neighboring villages, and participating in raping, torturing and killing them at an elementary school and a firehouse in Visegrad. Simsic surrendered voluntarily in January 2005. In July 2006, the first instance court found him guilty and sentenced him to 5 years imprisonment. The case is on appeal.

15. Summary of Domestically Generated Cases

a. MITROVIC, Petar et al

Defendants:

DZINIC, Brano (aka Cupo; DPOB: 28 June 1974, Jelacici, Kladanj, Bosnia and Herzegovina)

JAKOVLJEVIC, Slobodan (aka Boban; DPOB: 9 January 1964, Kusic, Srebrenica, Bosnia and Herzegovina)
MAKSIMOVIC, Velibor (aka Velja; DPOB: 15 December 1966 in Skelani, Srebrenica, Bosnia and Herzegovina)
MATIC, Milovan (DPOB: 20 May 1960, Kajici, Bratunac, Bosnia and Herzegovina)
MEDAN, Branislav (aka Bane; DPOB: 24 March 1965, Dubrovnik, Croatia)
MITROVIC, Petar (aka Pera; DPOB: 7 February 1967, Brezani, Srebrenica, Bosnia and Herzegovina)
RADOVANOVIC, Aleksandar (aka Aco; DPOB: 20 June 1973, Bujakovici, Skelani, Srebrenica, Bosnia and Herzegovina)
STEVANOVIC, Miladin (DPOB: 5 August 1966 in Brezani, Srebrenica, Bosnia and Herzegovina)
STUPAR, Milos (DPOB: 7 December 1963, Tisca, Sekovici, Bosnia and Herzegovina)
TRIFUNOVIC, Milenko (DPOB: 7 January 1968, Kostolomci, Srebrenica, Bosnia and Herzegovina)
ZIVANOVIC, Dragisa (aka Kele; DPOB: 4 October 1974 in Bajina Basta, Serbia)

Charge: Genocide

The defendants, all soldiers in the Republika Srpska Army or RS police during the war, are alleged to have participated in "a common plan to annihilate" Bosniaks as part of widespread and systematic attacks against the Bosniak population inside the UN protected area of Srebrenica from 10 to 19 July 1995. They are accused specifically of ambushing Bosniak civilians trying to reach Army of BiH-controlled territory, detaining over one thousand men in the Kravica Farming Cooperative warehouse, and executing them en masse. The indictment alleges that Stupar supervised while Dzinic threw hand grenades at the prisoners, Trifunovic, Jakovljevic, Radovanovic, Stevanovic, Mitrovic, Medan, Maksimovic and Zivanovic fired machine guns, and Matic reloaded ammunition. The defendants were taken into custody at various times between June and December 2005. At the preliminary hearing in February 2006, all defendants pleaded not guilty. The trial began in May 2006.

b. RAMIC, Neset (aka Mindzusa; DPOB: 18 October 1970, Donja Lijeska, Visoko, Bosnia and Herzegovina)

Charge: War Crimes Against Civilians

Ramic was a member of the 'Sabotage Company' within the Territorial Defense Forces of the Army of Bosnia and Herzegovina. According to the indictment, on 20 June, 1992, Ramic ordered fellow soldiers to remove six ethnic Serb from their homes in Hlapcevic. He demanded information from one Serb about the location of hidden weapons and minefields. Not receiving an answer, he shot the entire group. Two people survived. Ramic pled not guilty at the preliminary hearing in October 2006. The case is in the pre-trial phase.
MCELHANEY